

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DAVID E. MACK
Plaintiff,

v.

PROGRESSIVE FINANCIAL
SERVICES, INC., CHRISTOPHER HALE
Defendants.

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§
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CIVIL ACTION NO. 4:13-CV-00544

AFFIDAVIT OF BARBARA HOERNER

STATE OF ARIZONA

COUNTY OF MARICOPA

BEFORE ME, the undersigned authority, on this day personally appeared Barbara Hoerner, known to me to be the person whose name is subscribed on this instrument and, having been first duly sworn, upon her oath deposes and states as follows:

1. My name is Barbara Hoerner. I am the Corporate Counsel for Progressive Financial Services, Inc. I am over the age of eighteen (18) years, have never been convicted of a felony or a misdemeanor of moral turpitude and am fully competent and qualified to make this Affidavit. I have personal knowledge of all of the facts set forth in this Affidavit and all facts and statements contained herein are true and correct of my own personal knowledge.
2. Progressive Financial Services, Inc. is a debt collection agency located in Tempe, Arizona. Progressive Financial Services, Inc. collects consumer debts for clients.
3. I am a custodian of records maintained at Progressive Financial Services, Inc.
4. By means of its collection software, Progressive Financial Services, Inc. tracks each telephone call and attempted calls it makes as well as letters it sends to consumers and provides a

description within the account notes as to whether telephone contact with a consumer was made or whether a voice message was left.

5. This account documentation is kept in the regular course of business, and it is the regular course of our business, with knowledge of the act, event, condition, or opinion to make the record in the account notations or to transmit information thereof to be included in the account notation record; and the account notation record was made at or near the time or reasonably soon thereafter. The account notations for the relevant account are attached hereto as Def. App. 4-7. I have redacted Mr. Mack's personal information to protect his privacy.

6. Progressive Financial Services, Inc. performed a search of its accounts. There is a record of an account in Plaintiff's name.

7. According to the account notes, Plaintiff's account was referred to Progressive Financial Services, Inc. by The City of Dallas and it listed an amount of \$145.46 that Plaintiff owed to The City of Dallas.

8. On December 12, 2012, Progressive sent Plaintiff a letter which notified Plaintiff that his account had been referred to Progressive for Collection. This letter is attached as Def. App. 8 and was kept in the ordinary course of business.

9. Progressive received a request from Plaintiff requesting verification on debt ("VOD"). The letter received from Plaintiff is attached as Def. App. 9-10 and was kept in the ordinary course of business.

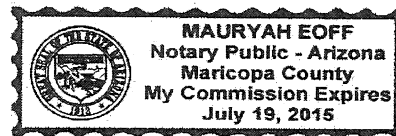
10. On December 27, 2012, Progressive sent Plaintiff a letter verifying the debt and the account details that Progressive had been provided by the original creditor, The City of Dallas. This letter is attached as Def. App. 11-12 and was kept in the ordinary course of business.

11. On December 31, 2012, Progressive received a letter from Plaintiff claiming that Progressive's December 27, 2012 VOD letter was not a sufficient verification of Plaintiff's debt. Plaintiff's letter is attached as Def. App. 13 and was kept in the ordinary course of business.

Signature: *Barbara Hoerner*
Name: Barbara Hoerner
Title: Corporate Counsel

SWORN TO AND SUBSCRIBED before me, a Notary Public, on this the 27 day of

June, 2014. *Mauryah Eoff*



4439384.PDK
DEBTOR HISTORY REPORT
04-22-13

Page 1

01:09PM

DEBTOR ID # 4439384 NAME DAVID MACK
ECONOMIC DESCRIPTION Individual PHONE NUMBER
DATE OF BIRTH SOCIAL SECURITY NUMBER DRIVER'S LICENSE LANGUAGE
English

LATEST ADDRESS ***** MAIL HAS BEEN RETURNED FROM THIS ADDRESS *****
7720 MCCALLUM BLVD APT 2099
Temporarily
DALLAS, TX 75252
DEBTOR STATUS : Hold Account
BROKEN PROMISES : 0
NSF CHECKS : 0
COLLECTOR : 014

CLIENT NAME REF. # SERVICE DATE LIST DATE ACCOUNT STATUS
PRINCIPAL INTEREST FEES BALANCE
CITY OF DALLAS 000100023810 02-10-07 11-24-12 Hold Account temporarily 145.46
.00 .00 145.46

TOTAL OWED: \$145.46

EMPLOYER STATE, ZIP EMPLOYMENT DETAILS EMPLOYER ADDRESS EMPLOYER CITY,
EMPLOYER PHONE

BANK STATE, ZIP BANK ACCOUNT NUMBER BANK ADDRESS BANK CITY,
BANK PHONE

FIRM STATE, ZIP ATTORNEY ATTORNEY ADDRESS ATTORNEY CITY,
ATTORNEY PHONE

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4439384.PDK

DEBTOR ACTIVITY HISTORY			USER	ACT	RES	ACTIVITY COMMENTS
ACT DATE	ACT TIME	BMG				
11-24-2012	06:33PM	BMG				Auto Debtor status chg from to NEW.
11-24-2012	06:33PM	BMG				New account 4439384-1 added.
12-12-2012		BMG				Notice 1-UTILITY sent for Account 4439384-1 bor N1.
12-12-2012	07:29PM	BMG				1stSearch results added for DAVID MACK
12-19-2012	11:10AM	BMG				Dout 214371 no answer
12-19-2012	11:11AM	BMG				Dout 214372 disc-num removed
12-19-2012	11:12AM	BMG				Dout 214942 msg complete to person
12-20-2012	02:54PM	BMG				Dout 214371 no answer
12-20-2012	02:54PM	BMG				Dout 214372 disc-num removed
12-20-2012	02:55PM	BMG				Dout 214942 holding-dropped before ans
12-24-2012	09:48AM	MFU				Auto Debtor status chg from NEW to HLD.
12-24-2012	09:51AM	MFU	CO	UP		Changed Collector from 289 to 014.
12-24-2012	09:49AM	MFU				RCVD CORR FWD TO CLIENT DBTR DISPS DEBT AND
12-24-2012	09:49AM	MFU				RQSTS VOD, RMVD CELL#214779,
12-24-2012	09:49AM	MFU				CELL#214779, 1STSRCH#214942 &
12-24-2012	09:49AM	MFU				1STSRCH#214371, MRKD GOOD ADDR AS RTND
12-27-2012	02:35PM	MFU				RCVD VOD FROM CLIENT FWD TO DBTR 12/27/12
12-28-2012		BMG				Phplus skip trace: no results.
01-03-2013	03:42PM	MFU				Auto Debtor status chg from HLD to ACT.
01-03-2013	03:42PM	MFU				REOPENED ACCT AFTER VOD WAITING PERIOD

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4439384.PDK
 Assist redirect from MFU to 289.
 Auto Debtor status chg from ACT to HLD.
 RCVD CORR FWD TO CM DBTR FURTHER DISPS DEBT

DEBTOR HISTORY REPORT
 04-22-13
 Page 2

ACT DATE	ACT TIME	USER	ACT	RES	ACTIVITY COMMENTS
01-03-2013	03:42PM	MFU			
01-07-2013	03:22PM	MFU			
01-07-2013	03:23PM	MFU			
01-09PM					
01-11-2013	03:01PM	MFU			RCVD VOD FROM CLIENT FWD TO DBTR 1/11/13.
01-11-2013	03:03PM	MFU			IGNORE PREVIOUS NOTE
02-25-2013	04:39PM	CCT			RE-REQUESTED VOD FROM CLIENT 02/25/13
04-02-2013	10:03AM	CCT			RCVD LEGAL CORR FWD TO BHR, RMVD CELL#S
04-02-2013	10:03AM	CCT			214-779- 214-779- 1STSEARCH#S
04-02-2013	10:03AM	CCT			214-942- 214-371- MRKD GOOD ADDR
04-02-2013	10:03AM	CCT			AS RTND
04-03-2013	10:51AM	MEO			RCVD CORR. DEBTOR WANTS MORE INFO ON THE
04-03-2013	10:51AM	MEO			DEBT BUT CLAIMS WE TRIED TO COLLECT DURING
04-03-2013	10:51AM	MEO			THE VOD HOLD PERIOD AND WANTS TO SUB. WILL
04-03-2013	10:51AM	MEO			TALK WITH BHOENNER REGARDING A RESPONSE,
04-03-2013	10:51AM	MEO			MEO
04-22-2013	11:02AM	MRC			RCVD CORR AND PENDING LAWSUIT FROM DEBTOR
04-22-2013	11:03AM	MRC	CO	UP	FWD TO LEGAL
04-22-2013	01:06PM	CCT			RCVD LEGAL CORR FWD TO BHR RCVD NOTICE OF
04-22-2013	01:06PM	CCT			PENDING LAWSUIT

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4439384.PDK

DEBTOR PAYMENT HISTORY

PAYMENT CODE & DESCRIPTION

PAYMENT AMOUNT

PROMISED PAYMENTS

DATE

POST DATED CHECKS

DATE

AMOUNT

AMOUNT

□

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1209 4th Ave. South - Dept PRO
Nashville, TN 37210-4107



Account Number	4439384-1
Balance Due	\$145.46
Amount Enclosed	\$

Page: 1 / 1

0000004739



DAVID MACK
7720 MCCALLUM BLVD APT 2099
DALLAS, TX 75252-7525

Mail payments to:

PROGRESSIVE FINANCIAL SERVICES, INC.
PO BOX 22083
TEMPE, AZ 85285



☐ Please check box if your address has changed
and indicate change(s) on reverse side.

DETACH UPPER PORTION AND RETURN WITH PAYMENT

CREDITOR: City of Dallas
ORIGINAL CREDITOR: City of Dallas
CREDITOR #: 000100023810
ACCOUNT #: 4439384-1
DEBTOR NAME: DAVID MACK
BALANCE DUE: \$145.46
LAST PMT TO CREDITOR:

Dear DAVID MACK,

THIS LETTER SERVES AS FORMAL NOTICE THAT YOUR ABOVE REFERENCED ACCOUNT HAS BEEN REFERRED TO US FOR COLLECTION. YOU ARE HEREBY NOTIFIED THAT YOUR RESPONSIBILITIES INCLUDE REPAYMENT OF THE BALANCE. THE BALANCE OF YOUR ACCOUNT IS DUE IN FULL. IN ORDER TO AVOID ANY FURTHER COLLECTION ACTIVITY, MAIL YOUR PAYMENT DIRECTLY TO MY ATTENTION OR CALL TO DISCUSS ARRANGMENTS.

PLEASE REFER ALL PAYMENTS AND CORRESPONDENCE TO THE FOLLOWING ADDRESS:

PROGRESSIVE FINANCIAL SERVICES, INC.
PO BOX 22083
TEMPE, AZ 85285

INCLUDE YOUR PAYMENT COUPON AND THE ACCOUNT NUMBER REFERENCED ABOVE WITH YOUR PAYMENT.

SINCERELY,

Christopher Hale 866-484-0211 or 602-453-8903
DEBT COLLECTOR
PROGRESSIVE FINANCIAL SERVICES, INC.
HOUR OF OPERATION: MONT-THU 8AM-7PM, FRI 8AM-5PM, SAT 7AM-11AM CST

UNLESS YOU NOTIFY THIS OFFICE WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THIS DEBT, OR ANY PORTION THEREOF, THIS OFFICE WILL ASSUME THIS DEBT IS VALID. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN 30 DAYS FROM RECEIVING THIS NOTICE, THIS OFFICE WILL OBTAIN VERIFICATION OF THE DEBT OR OBTAIN A COPY OF A JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. IF YOU REQUEST THIS OFFICE IN WRITING WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE, THIS OFFICE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

If you have an attorney to represent you with respect to this debt or if this debt has been included in a bankruptcy, please furnish us with the appropriate information so we may mark our files accordingly.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector. PFS/1.UTILITY MUN

*** NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION ***

DefApps0008

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December 22, 2012

David Mack
7720 McCallum Blvd. 2099
Dallas, Texas 75252

Progressive Financial Services, Inc.
PO Box 22083
Tempe, AZ 85285

Re: Acct # 4439384-1

To Whom It May Concern:

This letter is being sent to you in response to a notice sent to me dated December 12, 2012 (copy enclosed) Be advised that this is not a refusal to pay, but a notice sent pursuant to the Fair Debt Collection Practices Act, 15 USC 1692g Sec. 809 (b) that your claim is disputed and validation is requested.

This is NOT a request for "verification" or proof of my mailing address, but a request for VALIDATION made pursuant to the above named Title and Section. I respectfully request that your offices provide me with competent evidence that I have any legal obligation to pay you.

Please provide me with the following:

- What the money you say I owe is for.
- Explain and show me how you specifically calculated the entire amount of what you say I owe.
- Provide me with copies of any and all papers that show I agreed to pay what you say I owe.
- Identify the ORIGINAL creditor.

If your offices are able to provide the proper documentation as requested, I will require at least 30 days after receipt to investigate this information and during such time all collection activity must cease and desist.

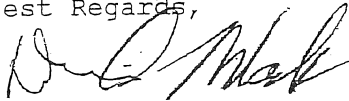
If your offices fail to respond to this validation request within 30 days from the date of your receipt, all references to this account must be deleted and completely removed from my credit files and a copy of such deletion request shall be sent to me immediately.

DefApps0009

I would also like to request, in writing, that no telephone contact be made by your offices to my home or to my place of employment. If your offices attempt telephone communication with me, including but not limited to computer generated calls and calls or correspondence sent to or with any third parties, it will be considered harassment. All future communications with me MUST be done in writing and sent to the address noted in this letter by USPS.

It would be advisable that you assure that your records are in order before I am forced to take legal action. This is an attempt to correct your records, any information obtained shall be used for that purpose.

Best Regards,

A handwritten signature in dark ink, appearing to read 'David Mack', written in a cursive style.

David Mack

Sent by certified mail # 7010 0780 0000 0582 9021

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PROGRESSIVE FINANCIAL SERVICES, INC.
P.O. BOX 22083
TEMPE, AZ 85285

STATEMENT DATE: 12/27/12
ACCOUNT NUMBER: 4439384
REFERENCE NUMBER: 000100023810

DAVID MACK
7720 MCCALLUM BLVD APT 2099
DALLAS, TX 75252

PROGRESSIVE FINANCIAL SERVICES, INC.
P.O. BOX 22083
TEMPE, AZ 85285

☐ Please check box if above address is incorrect
and indicate change(s) on reverse side.

◀ DETACH UPPER PORTION AND RETURN WITH PAYMENT ▶

PROGRESSIVE FINANCIAL SERVICES, INC.
P.O. BOX 22083
TEMPE, AZ 85285
1-866-484-0204
1-602-453-8800

ORIGINAL CREDITOR: CITY OF DALLAS
CURRENT CREDITOR: CITY OF DALLAS
ACCOUNT NUMBER: 4439384
REFERENCE NUMBER: 000100023810
CURRENT BALANCE DUE: \$ 145.46

DEAR DAVID MACK
PROGRESSIVE FINANCIAL SERVICES, INC. HAS RECEIVED YOUR REQUEST FOR ADDITIONAL DOCUMENTATION REGARDING THE
ACCOUNT PLACED BY CITY OF DALLAS

THE ATTACHED INFORMATION HAS BEEN PROVIDED BY THE CREDITOR TO VALIDATE THE EXISTENCE AND/OR ACCURACY OF THE
DEBT.

☒ COPIES OF ACCOUNT DETAIL
☐
☐

PLEASE REVIEW THE ENCLOSED INFORMATION. IF YOU HAVE FURTHER QUESTIONS REGARDING THIS MATTER PLEASE CONTACT
PROGRESSIVE FINANCIAL SERVICES, INC. AT 1-866-484-0204.

SINCERELY,

CHRISTOPHER HALE

DEBT COLLECTOR
PROGRESSIVE FINANCIAL SERVICES, INC.
PO BOX 22083
TEMPE, AZ 85285
(866)484-0204
HOURS OF OPERATION: MONDAY - FRIDAY 8AM - 5PM MOUNTAIN STANDARD TIME

IF YOU HAVE AN ATTORNEY TO REPRESENT YOU WITH RESPECT TO THIS DEBT OR IF THIS DEBT HAS BEEN INCLUDED IN A
BANKRUPTCY, PLEASE FURNISH US WITH THE APPROPRIATE INFORMATION SO WE MAY MARK OUR FILES ACCORDINGLY.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS
COMMUNICATION IS FROM A DEBT COLLECTOR. PFS/GENCORR

*****NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION*****

DefApps0011

Case 4:13-cv-00544-RC-ALM Document 13-4 Filed 01/27/14 Page 1 of 1 PageID #: 105

CONFIDENTIALCONFIDENTIAL***
,ACCT NO,021-2724108-016,*PT* ,MO-LAST-BILL,09,CYCLE,02 ,SERVICE ENDED
,01/26/07
,NAME ,MACK DAVID ,15C ,STATUS,SUSPENSE ,LAST-
TRAN,09/22/07
,SERVICE, 6764 HUNTERS RIDGE DR ,PREMISE,S F RES
,ADDRESS,DALLAS TX 75248-5404 ,*NM* , ,RENTAL PROP. ,YES ,TCR-
NO
,*****01-12,SUSPENSE ACCOUNTS INQUIRY
,*****12/27/12,***,1132,**

,TOTAL AMT SUSPENDED , 145.46

TYPE WATER
,AMOUNT 30.56
,DATE 09/22/07
,REASON CUSTOMER REFUSES TO PAY
,DESCRIPTION SYSTEM GENERATED
,COLLECTION AGENCY ,PENN COLLECTION AGENCY

,* * *,ARE THERE MORE RECORDS ,YES ,* * *
,DSPLY,13,KEY, ,TO NEW SS, ,DSPLY, ,KEY,

December 31, 2012

David Mack
7720 McCallum Blvd. 2099
Dallas, Texas 75252

Progressive Financial Services, Inc.
PO Box 22083
Tempe, AZ 85285

Re: Acct # 4439384-1

Attn: Christopher Hale

Dear Sir,

I received your letter dated December 27, 2012, but it doesn't make much sense to be honest. I made a demand for validation and you send me some nonsense that doesn't have a name of any entity on it. I am supposed to take that as validation of this alleged debt? For all I know you produced that on your own computer. That doesn't validate anything quite frankly.

Another rather interesting item on that document you sent shows that the collection agency is Penn Collection Agency. I find it VERY interesting that document names a different collection agency than Progressive and you are trying to collect some alleged debt. I think you might do well to get your business in order and your records straight. They obviously are not that way at this point in time.

Do not send me any more of this nonsense. If you can PROPERLY validate this alleged debt then send something to me that makes sense.

Best Regards,



David Mack

7010 0780 0000 0582 9045

Sent by certified mail # 7010 0780 0000 0582 9045